THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21763 OF 1996

ORDER:

The petitioner's father, by name D. Konda Reddy, made a Claim Petition under Section 11(a) Andhra Pradesh Estates (A.A.) Estates (Abolition and Conversion Into Ryotwari) Act, 1948 (for short "the Act"), claiming a ryotwari patta in respect of the land situated in Errathivaripalle village, Sodam Mandal, Chittoor District. The said Claim Petition was rejected by the Settlement Officer, Nellore, by order dated 5.7.1977. Aggrieved by the said order the petitioner's father filed a Revision Petition before the Director of Settlements, Andhra Pradesh, Hyderabad, under Section 5(2) of the Act. After hearing both the parties, the said Revision Petition was allowed by order dated 11.3.1983, holding that the schedule land was ryoti land and that the petitioner had established his claim for grant of ryotwari patta under Section 11(a) of the Act. Accordingly, the order of the Settlement Officer dated 5.7.1977 was set aside. Questioning the said order, the Collector, Chittoor, preferred a further Revision under Section 7(d) of the Act before the Commissioner of Survey, Settlements & Land Records, Andhra Pradesh, Hyderabad. By order dated 17.9.1987, the Revision Petition was allowed by the Commissioner of Survey, Settlements & Land Records and the matter was remitted back to the Director of Settlements, on the ground that the Collector, Chittoor, was not given an opportunity to rebut the documents filed by the claimant before the Director of Settlements, Andhra Pradesh, Hyderabad.

After due enquiry, the Director of Settlements, Andhra Pradesh, Hyderabad, passed a fresh order dated 1.8.1996 dismissing the Revision Petition, thereby conforming the order of Settlement Officer dated 5.7.1977 under which the claim made by the petitioner's father for grant of ryotwari patta was rejected. The said order passed by the Director of Settlements, Andhra Pradesh,

Hyderabad, dated 1.8.1996 is under challenge in this writ petition.

It is contended by the petitioner that even during the pendency of the Revision before the Commissioner of Survey, Settlements & Land Records, the petitioner's father died in November, 1984, however, without bringing the legal representatives on record, the Revision Petition was decided. It is claimed that as a matter of fact, he filed an application before the Commissioner of Survey, Settlements & Land Records, to bring him on record as the legal representative of his deceased father, D. Konda Reddy, but without considering the same, the Revision Petition was allowed, remitting the matter back to the Director of Settlements, Andhra Pradesh, Hyderabad. Even before the Director of Settlements, the petitioner was not brought on record and the matter was proceeded against a dead person. Thus, it is contended that the impugned order is a *nullity*. It is also contended that by the date of the impugned order dated 1.8.1996, the Director of Settlements, Andhra Pradesh, Hyderabad was not in Office, since he was relieved on transfer on 29.7.1996 itself and all the matters, which were posted for hearing on 27.7.1996, including the Revision in question, were adjourned on the ground that the Officer was transferred. Thus, there was no hearing at all before passing the impugned order and on that ground alone the order is liable to be set aside, being in violation of the principles of natural justice. It is contended that even on merits, the findings recorded by the respondents are erroneous, and not based on proper appreciation of the documentary evidence produced by the petitioner.

In the counter-affidavit filed on behalf of the respondents, it is stated that no application was filed by the petitioner before the Commissioner of Survey, Settlements & Land Records, to bring the legal representatives of D. Konda Reddy on record, much less before the Director of Settlements, Andhra Pradesh, Hyderabad. It is also stated that though a notice of hearing was sent to the counsel for the petitioner informing that the case would be heard finally on 27.7.1996

by the Director of Settlements, Andhra Pradesh, Hyderabad, the counsel for the petitioner was absent. Since it was a long pending case, the same was taken up and decided on the basis of the material available on record, and the Director of Settlements, Andhra Pradesh, Hyderabad, pronounced the orders in open Court on 1.8.1996. After signing the said order, on 1.8.1996, the Officer was relieved. Hence, the allegations made by the petitioner are incorrect and without any basis.

I have heard the learned counsel for both the parties.

A perusal of the order dated 1.8.1996 makes it clear that the father of the petitioner by name D. Konda Reddy, was shown as the revision petitioner. The said order also reflects that the counsel for the revision petitioner was absent on 27.7.1996 and that the matter was decided on the basis of the material available on record. Though it is contended by the respondents that the death of D. Konda Reddy was not brought to the notice of the Revisional Authority, the petitioner had disputed the said version. Be that as it may, the fact remains that the impugned order was an *ex parte* order and that there was no opportunity to the petitioner to put forth his version.

It is also relevant to note that the Director of Settlements, Andhra Pradesh, Hyderabad, had initially allowed the Revision filed by the petitioner's father by order dated 11.3.1983, thereby upholding his claim for grant of ryotwari patta. In the said order a specific finding was recorded that the land in question was a ryoti land, which was in possession of petitioner's father's vendor prior to 1944. A diametrically opposite view was taken in the impugned order while passing a fresh order pursuant to the order of remand dated 17.9.1987. Having regard to the facts and circumstances, I deem it appropriate to direct reconsideration of the matter after hearing the petitioner on merits.

Accordingly, the impugned order is set aside and the writ petition is disposed of granting liberty to the petitioner to file an application to bring him on record in the place of the original petitioner

(D. Konda Reddy). If any such application is filed within four weeks from the date of receipt of a copy of this order, the same shall be considered and appropriate orders be passed in accordance with law. The main Revision Petition shall be heard and decided after notice to the petitioner within eight weeks thereafter. Till such time, the respondents shall not interfere with the possession of the petitioner in respect of the land in question.

The writ petition is accordingly disposed of. No costs.

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G. ROHINI, J.

21st March, 2007.
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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.2763 OF 1996

21st March, 2007.

Between:

D. Thimma Reddy. .. Petitioner.

And

The Director of Settlements, Gagan Vihar Towers, Mukharamzahi road,
Hyderabad and others. .. Respondents.